This guidance provides information about the Family Educational Rights and Privacy Act (FERPA) and the Protection of Pupil Rights Amendment (PPRA) and how these apply to human subjects research projects.

**FERPA**

The Family Educational Rights and Privacy Act (FERPA) is a Federal law administered by the U.S. Department of Education; 34 CFR Part 99. FERPA applies to all educational agencies and institutions that receive federal funding.

**Purpose**

FERPA aims to protect the privacy of Student Education Records. Education records include any record containing any personally identifiable information (PII) directly related to the student. PII is not limited to name, but may include indirect identifiers as well.

Examples include:

- Documents with a student’s name, ID number, or other identifier;
- Class rosters or grade lists;
- Place of birth;
- Ethnicity;
- Residency status;
- Advisor’s name;
- Class schedule;
- Courses completed;
- Grades;
- Disciplinary records;
- Student info displayed on a computer screen.

**Access**

In many cases student education records are accessible to and used by instructors, teachers, and administrators for the purposes of conducting the duties of their job. For example, as part of a teacher’s job, there is natural access to student’s assignments, test scores, and attendance records in order to evaluate performance and ultimately assign a grade. However, this same teacher cannot use this natural access for other intents and purposes, such as research. If this teacher wants to use this student data for research purposes, FERPA applies and consent is required, unless one of the exceptions to consent as outlined in FERPA is met.

**Consent**

Use of educational records for research purposes requires consent. Consent form must:

- Specify the records to be disclosed;
- State the purpose of the disclosure;
- Identify the party to whom the disclosure is to be made;
- Include a dated student signature.
Exceptions

Exceptions allowing for the use of educational records for research purposes without consent include:

- The only PII obtained constitutes “directory information and the student has not opted out of having his/her information included in the directory;
- The release is to an authorized representative of state/local educational authorities for an audit or evaluation of federal or state supported education programs, or for the enforcement of or compliance with federal legal requirements related to those programs;
  - Investigators must provide IRB with evidence that they are acting as authorized representatives of a state or local educational authority and that their audit or evaluation meets the conditions described above (e.g. a Memorandum of Understanding between university and educational authority);
- The release is to organizations conducting studies for or on behalf of educational agencies or institutions to develop, validate or administer predictive tests; administer student aid programs; or improve instruction;
  - A written agreement which meets criteria listed in FERPA between the university and the educational agency or institution is required.

PPRA

The Protection of Pupil Rights Amendment (PPRA) is a Federal law administered by the U.S. Department of Education; 34 CFR Part 98. PPRA applies to programs and activities of an educational agency or other recipient of funds under any program funded by the U.S. Department of Education. PPRA also applies to any research funded by the U.S. Department of Education. In summary, under PPRA parents and students must be notified of any event where students will disclose personal information or complete a survey/evaluation concerning eight specific areas; parents must have the opportunity to opt their child out of participating and may inspect the instrument being administered to the student prior to its administration.

Purpose

The Protection of Pupil Rights Amendment (PPRA) affords certain rights to parents of minor students with regard to surveys that ask questions of a personal nature. Briefly, the law requires that schools obtain written consent from parents before minor students are required to participate in any survey, analysis, or evaluation that reveals information concerning the following sensitive areas:

- Political affiliations or beliefs of the student or the student’s guardians;
- Mental and psychological problems potentially embarrassing to the student or his/her family;
- Sex behavior and attitudes;
- Illegal, anti-social, self-incriminating and demeaning behavior;
- Critical appraisals of other individuals with whom respondents have close family relationships;
- Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;
- Religious practices, affiliations, or beliefs of the student or student's parent*; or
- Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program.)

Requirements

There are three types of notifications an education agency (i.e., school district) must provide parents and students. The first one is a general notification of their rights under PPRA. The second notice is a notification of the following specific events:
• Activities involving the collection, disclosure, or use of personal information collected from students for marketing purposes or for selling that information, or otherwise providing it to others for that purpose;
• The administration of any survey containing one or more of the eight protected areas listed above: and
• Any nonemergency, invasive physical examination or screening that is: (1) required as a condition of attendance; (2) administered by the school and scheduled by the school in advance; and (3) not necessary to protect the immediate health and safety of the student, or of other students.

The third is notification of the policies educational agencies are required to develop, in consultation with parents, under PPRA. The educational agency shall provide the notice at least annually, at the beginning of the school year, and within a reasonable period of time after any substantive change in the policies.

The policies must include:

• The right of a parent of a student to inspect, upon the request of the parent, a survey created by a third party before the survey is administered or distributed by a school to a student, and any applicable procedures for granting a request by a parent for reasonable access to the survey within a reasonable period of time after the request is received;
• Arrangements to protect student privacy that are provided by the LEA in the event of the administration or distribution of a survey to a student containing one or more of the eight protected areas of information; and
• The right of a parent of a student to inspect, upon request, any instrument used in the collection of personal information (a student or parent’s first and last name, a home or other physical address, a telephone number, or a Social Security identification number) before the instrument is administered or distributed to a student, and any applicable procedures for granting a request by a parent for reasonable access to such instrument within a reasonable period of time after the request is received.

Consent

PPRA requires schools to notify parents/guardians and obtain consent or allow the parent/guardian to opt his/her child out of participating in the activity. It is the researcher’s responsibility to communicate with the institutions where research will be conducted to ensure that there are PPRA-compliant policies in place and design a consent process that complies with both the school’s PPRA policy and DU IRB policy.

References


For additional guidance and information, contact University of Denver Office of Research Integrity & Education at (303) 871-2121 or at: IRBAdmin@du.edu.